

MEETING RECORD

NAME OF GROUP: PLANNING COMMISSION

DATE, TIME AND PLACE OF MEETING: Wednesday, April 25, 2018, 1:00 p.m., Hearing Room 112 on the first floor of the County-City Building, 555 S. 10th Street, Lincoln, Nebraska

MEMBERS IN ATTENDANCE Tom Beckius, Tracy Corr, Tracy Edgerton, Deane Finnegan, Cristy Joy, Maja V. Harris, Chris Hove, Dennis Scheer, and Sändra Washington. David Cary, Steve Henrichsen, Rachel Jones, Dessie Redmond, George Wesselhoft, Brian Will, Geri Rorabaugh, and Amy Huffman of the Planning Department; media and other interested citizens.

STATED PURPOSE OF MEETING: Regular Planning Commission Hearing

Chair Scheer called the meeting to order and acknowledged the posting of the Open Meetings Act in the room.

Harris requested that the minutes from the April 4, 2018 special hearing and the April 11, 2018 regular hearing be called separately.

Scheer requested a motion approving the minutes for the special meeting held April 4, 2018. Motion for approval made by Joy, seconded by Finnegan and carried, 7-0: Beckius, Corr, Edgerton, Finnegan, Joy, Washington, and Scheer voting 'yes'; Harris and Hove abstaining.

Scheer requested a motion approving the minutes for the regular meeting held April 11, 2018. Motion for approval made by Harris, seconded by Edgerton and carried, 7-0: Beckius, Corr, Edgerton, Finnegan, Harris, Joy, and Scheer voting 'yes'; Hove and Washington abstaining.

CONSENT AGENDA

PUBLIC HEARING & ADMINISTRATIVE ACTION

BEFORE PLANNING COMMISSION:

April 25, 2018

Members present: Beckius, Corr, Edgerton, Finnegan, Harris, Hove, Joy, Scheer, and Washington.

The Consent Agenda consisted of the following items: **SPECIAL PERMIT NO. 13055B, SPECIAL PERMIT NO. 16019A, USE PERMIT NO. 121A, and STREET AND ALLEY VACATION NO. 18001.**

Harris disclosed that she had spoken supporters of the Willard Community Center. They did not discuss this application specifically, but talked about the programming that will take part in the expansion.

Hove moved approval of the Consent Agenda, seconded by Corr and carried, 9-0: Beckius, Corr, Edgerton, Finnegan, Harris, Hove, Joy, Washington, and Scheer voting 'yes'.

Note: This is FINAL ACTION on **SPECIAL PERMIT NO. 13055B** and **SPECIAL PERMIT NO. 16019A** unless appealed by filing a letter in the Office of the City Clerk within 14 days. This is a recommendation to City Council on all other Consent Agenda items.

SPECIAL PERMIT NO. 18012, TO ALLOW A WIND ENERGY CONVERSION SYSTEM (WECS) TOWER TO EXCEED THE RESTRICTED HEIGHT OF 35 FEET WITH SETBACK REDUCTION, ON PROPERTY GENERALLY LOCATED AT 1844 WASHINGTON STREET: April 25, 2018

Members present: Beckius, Edgerton, Finnegan, Harris, Hove, Joy, Washington, Corr, and Scheer.

Staff recommendation: Conditional Approval.

There were no ex parte communications disclosed on this item.

Staff Presentation: **George Wesselhoft, Planning Department**, said this application is for the northwest corner of Washington and 19th Streets. The proposal is to install a small wind turbine at the northwest part of the property, attached to the back of the deck on the west side of the existing garage. The total height of the proposed turbine is 52 feet from grade to the top of the rotors. There is a waiver to seek a setback reduction from 52 feet to 41 feet to the west and north property lines. Another facet of this application is to restrict the fall zone to the 41-foot setback. Compliance with that fall zone and the requirement for the turbine to remain within the limits of the noise ordinance will have to be demonstrated by the applicant before a building permit will be issued. This is the first application of this kind that Planning is aware of. The permit is needed because the proposal is exceeding the height normally allowed by right. Otherwise, wind energy conversion systems are allowed, by right, in all zoning districts.

Corr asked how tall the house is, for comparison. Wesselhoft said that questions can be answered by the applicant.

Beckius noted the required distance to the base of an adjacent turbine would need to be 5 rotor distances away and whether the placement of this system could cause any problems if an adjacent owner wanted to add a similar system to their lot. Wesselhoft agreed that the distance would total 30 feet and would not cause a problem in this case.

PROPONENTS:

1. **Clark DeVries, 1844 Washington Street**, said the height of the house is 29 feet at its peak. The chimney rises to 32 feet and the garage is around 25 feet, so this turbine would be about twice that height. He designed and built this house himself and had solar panels installed a few years ago. He would now like to have a mix. As a mechanical engineer, he promotes renewable energy even though it is challenging. He has designed this project and asks now to be able to implement it.

Edgerton asked why the extra height has been requested. DeVries said that he has a pole that height and is able to incorporate a nice structure into the columns of the deck itself. The rotor diameter dictates the height, so it could be slightly less tall. It will be based on the availability of materials.

Hove asked if the neighborhood has been made aware of this project. DeVries said he did have a call from a neighbor who was supportive of renewable energy, but was concerned about the height. The tower is so far back on the property, it is in the middle of the block. He has been trying to get the sound data from the manufacturer but that is difficult. Health requires less than 55 dBs at any given time. He and his son own many of the nearby properties.

Finnegan asked where the tower will be in conjunction with the garage. DeVries said it will be on the west side, opposite of where you drive in. Finnegan noted that the solar panels were a pretty good size also.

Hove asked how much power the turbine will provide. DeVries said between 400-600 watts will be generated. It will charge a battery bank and add power to that part of his system.

Washington asked at what wind speed the dBs are measured. DeVries said that is the information that is difficult to pin down. They were rated around 30 mph. The rotors are slowed down at higher speeds. The worst specs he saw were 48 dBs measured at the base of the turbine. In his case, from the ground, you are already 52 feet away. There is no standard on these smaller units; they just don't have the data.

Scheer asked if the sound data is what the Health Department would be looking at. DeVries said yes. He is aware that if he has the turbine up and there is a complaint, he has a problem and intends to be responsible about it.

Finnegan asked if there was any concern about vandalism on the solar panels. DeVries said he has a privacy fence and has had no problems.

OPPONENTS:

1. **Diane Koza, 2065 Indigo Court**, came forward as property owner of 1832 Washington Street, located directly next door. They have not been approached about this project. When they purchased the 4-plex apartments next door, they intended to provide comfortable, affordable housing. Adding the turbine could have adverse effects on their residents and would take away from the neighborhood feel of the area. Commercial wind turbines requires a setback of 2,600. Studies have shown that the noise from turbines is piercing and unpredictable and the noise and light flicker can cause sleep disturbances, headaches, fatigue and many other adverse effects. What resources will neighbors have if people suffer from the effects? She would like to see examples of similar turbines in neighborhoods that are as densely populated to see if there have been problems. It is the role of Planning Commission to watch out for residents and she wondered how they would feel if their neighbor installed a turbine so close to their property.

Corr asked if the results of the study were from the larger, commercial turbines. Koza said she could not find any information on the smaller systems, but even if the turbine size/setback ratio were scaled down proportionally, this proposed turbine would still not meet the setback.

STAFF QUESTIONS:

Harris asked if the turbine would be allowed by right if it met the 35-foot height requirement. Wesselhoft said that is correct. The only reason the setback waiver is needed is to guarantee the safe fall zone. Harris asked the intent of the setback. She wondered if it was determined based on the fall zone, meeting the noise ordinance, or aesthetics. Wesselhoft says that as far as he knows, it is based on the fall zone. Harris asked if it is the opinion of staff that the height limit has nothing to do with aesthetics. Wesselhoft said the primary intent is to keep the whole of the structure on the premises if it collapses. Harris asked if staff is confident that this proposal will meet the fall zone requirement. Wesselhoft said the applicant will be required to guarantee that in order to be issued a building permit.

Corr said it is her understanding that when these fall, they fold into themselves. There was general discussion about the tower in proportion to the deck height.

Hove asked for more information about the noise ordinance. **Chris Schroeder, Health Department**, said the noise ordinance limits noise from 7:00 a.m. to 10:00 p.m. at 65 dBs. At night that drops to 55 dBs. The measurement would be taken at the property line of the person making the complaint. Beckius asked for examples of sounds that are around 55 dBs. Schroeder said soft conversation.

Harris asked if there is shadow flicker with these small systems. Schroeder said he cannot answer that.

Hove wondered if they make the thumping sound the commercial turbines make. Scheer asked if the information provided by the manufacturer is sufficient information at the time the building permit is issued. Schroeder said that will be the best information. If there is a complaint after installation, Health Department would measure the noise level. If it exceeds the noise ordinance limitations, the owner will be required to take corrective action to be in compliance.

Beckius asked if the noise ordinance will be the same as what is on the property today. Schroeder said that is correct. Beckius commented that there will be no change or exception made to the noise ordinance.

Joy asked the height of the power poles adjacent to the property. Wesselhoft said he does know. Joy commented it could be close, visually. She asked if there were any health issues due to proximity of power poles. Schroeder said none that he is aware of.

APPLICANT REBUTTAL:

DeVries commented that he did take calls from neighbors; he thought he had addressed most questions. These small systems do not produce the same physical effects of the commercial turbines. Additionally, the effects felt near commercial turbines is opinion. The flicker is proportionate to the diameter. These rotors are so small and are spinning at a higher rpm, so it is more likely they will just produce a shadow at that speed. Potential for noise pollution is

a real concern and he is waiting to see what data shows. Even if the turbine were built at the allowed 35-foot height, that noise issue would remain. Traffic noise from A Street is most likely louder, though that does slow down at night. He pledges to take corrective action if there is a problem.

Finnegan asked why DeVries request more height than the allowed 35 feet. DeVries said it is best to get over the buildings and trees to get out of the turbulent areas. He will get more wind production at a higher elevation.

Hove asked if he is aware of any other turbines like the one being proposed in as densely populated an area. DeVries responded that there was a house near Tabitha that had a system attached to an antenna pole. The turbines seen at the EZ Go gas stations are horizontal axis style and are a different system. They are out there, though there are not many in Lincoln.

Corr asked if this system could be compared to a commercial turbine. DeVries said some commercial turbines are 300 feet in diameter. This one will be four to six feet. The data cannot be scaled. Corr asked if Mr. DeVries is familiar with the turbine at 84th and O Streets. He said he was not. Corr commented that on a windy day, it can definitely be heard. DeVries said that in his case, without more data, he will count on the data provided by the manufacturer and then measure noise levels at the property line.

SPECIAL PERMIT NO. 18012

ACTION BY PLANNING COMMISSION:

April 25, 2018

Harris moved for approval, seconded by Washington.

Harris said her decision is guided by the fact that a 35-foot wind turbine would be allowed by right in all districts. That means that the community has found this to be an appropriate use. Her questions about the intent of the regulations pertaining to the height limits were to ascertain whether they were based on aesthetics or safety concerns. From what she has been told, it is a safety concern; therefore, when it is clear that safety guidelines can be met, and that Comprehensive Plan encourages the use of alternative energy sources, this application seems appropriate and she is willing to let the applicant try.

Washington stated that she seconded the motion because this application is moving in the right direction and it does not seem that it will take away from the character of the neighborhood, so long as it meets building codes regarding the fall zone and noise levels. She is comforted by the fact that this particular applicant appears to understand his responsibility to his neighbors and will take the necessary steps to correct problems.

Beckius said that his main concern was potential noise issues, but it seems those limits will not be exceeded.

Finnegan said she struggles with this use in such a densely populated area. She drove around the site and tried to envision the tower, but concluded the height limit was in place for a reason. This is not a large lot or a rural area, so the height request is too much.

Hove said that he will also vote against this application in such a densely populated area. He also has concerns about the noise. Even if the levels stay below what is allowed, the type of noise produced could be such that it is noticeable.

Scheer stated there have been good arguments made on both sides. He will support this application because there appears to be enough controls in place to make sure this project will be a success. If it is not, assurances have been given that problems will be addressed, even up to the extent that the tower will be removed. After the long discussion about commercial wind energy turbines in recent years, this one seems different and more appropriate for the scale of this neighborhood.

Motion carried, 7-2: Beckius, Corr, Edgerton, Harris, Joy, Washington, and Scheer voting 'yes'; Finnegan and Hove dissenting.

There being no further business to come before the Commission, the meeting was adjourned at 1:46 p.m.

Note: These minutes will not be formally approved by the Planning Commission until their next regular meeting on Wednesday, May 9, 2018.